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Twelfth report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)

I. Introduction

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999), in which the Council requested me to report every six months on the return of all Kuwaiti property, including archives, seized by Iraq. The present report provides a brief account of the relevant developments since my last report on this issue (S/2002/1349) dated 12 December 2002.

2. It will be recalled that when the High-level Coordinator, Yuli M. Vorontsov, briefed the Security Council on 24 April 2003, he noted that his mandate would continue to be implemented until such time "as the Council decides otherwise". On 22 May, the Security Council adopted resolution 1483 (2003), in paragraph 6 of which the Council confirmed the mandate of the High-level Coordinator.

II. Background

3. On 18 December 2002, the Kuwait News Agency (KUNA) reported that a representative of the League of Arab States (LAS), Ali Al-Jaroush, said that the Organization had received from Iraqi officials a list of the property belonging to the Kuwait National Museum. The same list was delivered to the United Nations (see S/2002/1349, para. 75). Mr. Al-Jaroush expressed hope that this step, inter alia, would facilitate a fair and speedy solution to the long-standing issue.

4. On the same day, the Under-Secretary of the Ministry of Foreign Affairs of Kuwait, Khalid Al-Jarallah, told the Kuwaiti newspaper *Al-Seyassah* that, "so far Iraq had not delivered important documents and official records, particularly, those of the Amiri Diwan, the Council of Ministers and the Ministry of Foreign Affairs".

5. On 18 December, the High-level Coordinator, in a briefing to the Council on my tenth report (S/2002/1349), noted that, "Iraq recently completed the return of the first batch of the Kuwaiti archives under the auspices of the United Nations. Representatives of LAS were present at the handover. The second handover, scheduled to take place soon, would involve the return of a number of separate items in a smaller operation to be facilitated by the United Nations Iraq-Kuwait Observation Mission (UNIKOM)". The Coordinator stressed, however, that despite these encouraging developments, the return of the Kuwaiti property remained

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incomplete, because documents from the Amiri Diwan and the Council of Ministers, to which Kuwait attached far greater importance, were still missing.

6. Several Members expressed support for the efforts of the Coordinator and noted that Iraq had made "promising steps" and had given "encouraging signs" on the issue of the return of Kuwaiti documents. They pointed out, however, that overall progress was limited and the incomplete deliveries of documents were "not even close to meeting the requirements of relevant resolutions or the concerns of Kuwait".

7. In a subsequent statement to the press, the President of the Security Council said that "Members noted the return of documents previously removed from Kuwait. They agreed that Kuwait was uniquely positioned to ascertain whether Iraq had returned all of the documents, including national archives. Members called upon Iraq to redouble its efforts aimed at returning all remaining Kuwaiti property".

8. On 19 December, the Coordinator met with the Deputy Permanent Representative of Kuwait, Mansour Ayyad Sh. A. Al-Otaibi, who informed him that Kuwait's Government did not consider the documents handed over by Iraq earlier to be "archives". The Coordinator suggested that in the future it might be necessary to conduct on-the-spot initial inspections of the property returned. Such inspections, to be carried out in the presence of the Iraqi officials, would prevent possible misunderstandings.

9. On 23 December, the Chargé d'affaires of the Permanent Mission of Kuwait, Mansour Ayyad Sh. A. Al-Otaibi, addressed a letter to me (S/2002/1412), in which he referred to the documents handed over to Kuwait by Iraq in October 2002. In his letter he wrote that the examination conducted by the relevant Kuwaiti authorities of those documents "has shown that the documents returned consist of routine papers and correspondence between State ministries and of application forms and that they do not in any way amount to what might be regarded as archives of the State".

10. On the same day, Abdul-Hamid Al-Awadi, the Director of the Department of International Organizations of the Ministry of Foreign Affairs of Kuwait, stated that, "Iraq was not handing over items important to the State of Kuwait". He observed that the recent return of a few items "was conducted in order to improve the image of Baghdad and to demonstrate Iraq's cooperation".

11. On 24 December, the Coordinator met in New York with the Chairman of the National Committee for Missing Persons and Prisoners of War Affairs, Sheikh Sabah Al-Salem Al-Sabah. Having discussed the return of the Kuwaiti property, the Coordinator noted that there had been some progress in this area.

12. During the open debate of the Security Council on Iraq, held on 18 and 19 February 2003, numerous representatives spoke, inter alia, on the issue of the return of all Kuwaiti property, including archives, seized by Iraq (see S/2003/419, para. 11). The representative of Kuwait stated that, as concerned the issue of the property usurped by Iraq during its occupation of Kuwait, the way that Iraq had addressed that question was not different from the way in which it had dealt with other issues. Procedural and nominal cooperation was the main characteristic of Iraqi conduct. Iraq claimed that it did not have any Kuwaiti property and documented those claims in a letter it addressed to the Secretary-General in 1994. Later, however, it had admitted that it still had some Kuwaiti governmental and institutional documents and property. Iraq even claimed that those documents represented the national

archives of Kuwait. Subsequently, when those documents were returned, under the auspices of the United Nations and in the presence of representatives of LAS, and when they had been studied to determine which properties had been returned, it was found that they were simply correspondence between different organs of the State apparatus and that they could not be the official archives of Kuwait. The representative stated that his Government had therefore sent a letter to the Secretary-General in order to place on record its position that Iraq's failure to cooperate in returning the national archives of Kuwait and other property was a cause for concern (see S/PV.4709).

13. In the statements made after the adoption of Security Council resolution 1483 (2003) on 22 May (see S/PV.4761), the United States of America, which had co-submitted the resolution with Spain and the United Kingdom of Great Britain and Northern Ireland, explained that the resolution preserved Iraq's obligations to Kuwait and others. The Permanent Representative of the United Kingdom addressed the future, stating that the resolution did not seek to resolve every issue and that the Council would need to consider the future of progress on repatriating the Kuwaiti archives.

III. Recent activities

14. As mentioned in my eleventh report (S/2003/419, para. 16), on 18 December, I met with the Coordinator to exchange views on how to proceed with the implementation of his mandate in light of the invitation to visit Iraq. On the same day I requested the then Permanent Representative of Iraq to cooperate fully with the Coordinator during his forthcoming visit.

15. On 22 December, a spokesman of the Ministry of Foreign Affairs of Iraq stated that recently found Kuwaiti items, including gifts from Heads of State to the ruling family and a number of museum objects, would be returned to Kuwait.

16. On that day, the return of separate items of Kuwaiti property (see S/2002/1349, annex), took place at UNIKOM headquarters in Umm Qasr, Iraq. UNIKOM's Senior Adviser, Tesfaye Tadesse, facilitated the procedure and represented the United Nations. The items referred to in the letter from the then Permanent Representative of Iraq, dated 4 December, could not be returned on that occasion. The Iraqi representatives suggested that the Iraqi Permanent Mission to the United Nations should be advised accordingly, if those items were to be delivered again through UNIKOM. My Spokesman noted that Iraq had handed over to Kuwaiti officials some items of Kuwaiti property not related to the national archives (see annex I).

17. In pursuance of his mandate, the Coordinator maintained contacts with the leadership of LAS and the Organization of Islamic Conference (OIC). On 12 January 2003, Ambassador Vorontsov met in Cairo with the Secretary-General of LAS, Amre Moussa, who agreed to inform the Iraqi leadership of the need to look for the stolen Kuwaiti property. The Secretary-General of OIC, Abdelouahed Belkeriz, to whom the Coordinator paid a visit on 14 January at Jeddah, Saudi Arabia, also spoke in favour of the transfer of archives from Iraq to Kuwait.

18. On 18 January, the Coordinator travelled to Baghdad where he met with the senior representatives of the Iraqi Ministry of Foreign Affairs. They maintained that Iraq had returned the bulk of Kuwaiti property and if more were to be found, such

items would be returned as well. They felt that the transfer operation should be seen as a confidence-building measure. At the same time, the Iraqis did not exclude the possibility that more property might be found and they undertook to make additional efforts to locate the remaining undelivered items.

19. While the Coordinator pointed out that the transfer of the first batch of property was noted in the relevant reports of the Secretary-General, he also reminded the senior representatives that the bulk of documents returned did not belong to national archives, because "archives, by definition, were documents related to the foundation of the state or international treaties".

20. The then Minister for Foreign Affairs of Iraq, Naji Sabri, subsequently promised to arrange the second transfer of documents, should they be discovered. He noted that the Iraqi officials were searching for them through "hundreds of files", and that there was no point for Iraq to keep such documents.

21. On 20 January 2003, the Coordinator visited UNIKOM headquarters in Umm Qasr, where he met with Tesfaye Tadesse and discussed with him the issue of the return of small items of Kuwaiti property, which UNIKOM was facilitating. He also visited Kuwait and had numerous meetings there. The Coordinator briefed me on his visit to the region on 28 January.

22. From 28 to 31 January, the Force Commander of UNIKOM, Major-General Franciszek Gagor, visited Baghdad before meeting with the then Minister for Foreign Affairs of Iraq and Ambassador Saeed Al-Musawi. The Iraqi officials expressed appreciation for the important role UNIKOM played in facilitating the return of Kuwaiti properties.

23. On 3 February, another transfer of the Kuwaiti documents and small items of property took place at UNIKOM headquarters in Umm Qasr. Items referred to in the letter from the Permanent Representative of Iraq dated 4 December 2002 had formed the basis for this transfer. The Iraqi representative had also brought additional items that were to be returned under a separate procedure. The Kuwaiti officials welcomed this and agreed on the arrangements. This was the last transfer of items before the beginning of military action on 19 March (see annex II).

IV. Observations

24. I wish to note the contribution that UNIKOM made in the facilitation of the return of various items of Kuwaiti property at the end of 2002 and the beginning of 2003.

25. Prior to the outbreak of hostilities in Iraq, the then Government of Iraq demonstrated some limited cooperation on the return of Kuwaiti property. While some property and some documents were handed over, it must be stressed that the Kuwaiti archives, along with Kuwaiti military equipment seized by Iraq, remain largely unreturned.

26. It should be recalled that, under paragraph 6 of Security Council resolution 1483 (2003), the High-level Coordinator was asked to proceed with his duties in fulfilment of his mandate. It is hoped that there will be continued commitment to the search and return of Kuwaiti property and archives and that real progress may soon be achieved.

Annex

Kuwaiti property returned on 22 December 2002

Items of Kuwaiti property reported to the Secretary-General of the United Nations in a letter dated 30 July 2002 from the Department of International Organizations and Conferences of the Ministry of Foreign Affairs of Iraq addressed to the United Nations Iraq-Kuwait Observation Mission

1. A green leather case inscribed "Gift to His Highness Sheikh Jaber Al-Ahmad Al-Sabah from his brother King Fahd Ben Abdul-Aziz".
2. A magnum revolver with rifle stock and sight inscribed "For the Amirs and Kings of the Gulf — Jaber Al-Ahmad Al-Sabah".
3. An automatic hunting rifle inscribed "Sheikh Mubarak Al-Abdalah Al-Ahmad".
4. Thirteen dishes as follows:
   (a) Five large dishes with decorated edge in 24-carat gold bearing the emblem of Kuwait;
   (b) One small dish with decorated edge in 24-carat gold bearing the emblem of Kuwait;
   (c) One decorated dish in 24-carat gold bearing the emblem of Kuwait;
   (d) Five medium-small dishes with decorated edge in 24-carat gold, without emblem;
   (e) One small dish with decorated edge in 24-carat gold, without emblem.
5. One bronze statuette of a south-east Asian man playing a musical instrument.
6. A Smith & Wesson steel magnum revolver numbered 357 and inscribed "Presented to His Excellency Sheikh Salem Sabah Al-Salem Al-Sabah".
7. A painting entitled "Doves of the East" by the English artist Alfred Elmore and dated 1880, damaged.
8. A painting of a rural Dutch scene from the classical period.
9. A painting of churches by an artist from one of the socialist countries from the early twentieth century.
10. A painting of a snowy forest scene by a contemporary artist, dated 1985.
11. Two swords inscribed "this weapon was produced during the reign of His Highness Sheikh Jaber Al-Ahmad Al-Jaber Al-Sabah 1404 H/1984 A.D." and stamped with the British Royal seal and the letter W in English as well as the Koranic verse "In Yansurukum Allah Fala Ghaleb Lakum", and a leather sheath for one sword.

Item listed in a letter to the Secretary-General of the United Nations dated 23 June 2002

One small carpet presented by the former Shah of Iran to His Highness Sheikh Jaber Al-Ahmad Al-Jaber Al-Sabah, Prince of Kuwait, described as follows:

Size: 32.5 inches by 26.5 inches

Upper margin carries the phrase "Gift of the Shah"

Lower margin carries the phrase "State of Kuwait/Shaikh Jaber Al-Ahmad Al-Sabah/Prince of Kuwait"

Kuwaiti flags adorn the edges of the carpet.

Kuwaiti property listed in the letter dated 3 December 2002 from the Department of International Organizations and Conferences of the Ministry of Foreign Affairs of Iraq addressed to the United Nations Iraq-Kuwait Observation Mission

1. A sword from the Emiri Honorary arms, carrying No. 116489 fabricated in 1984.

2. Tutu rifle (No. FP59246) with inscription reading "Gift from His Majesty King Juan Carlos to His Highness Prince Regent Saad Abdullah Salem Al-Sabah on the occasion of the Eid with best wishes".

3. 196 seals of the Land Registry Office in Kuwait.

4. Swedish-made lab equipment (Fermanter) composed of three pieces:

   (a) 12-litre glass container (LKB Part No. 16900005, Serial No. 4032);

   (b) 5-litre glass container;

   (c) Control device (LKB 1601 Ultro Ferm).

5. Archaeological items including flint stones and pottery property of the Kuwaiti Museum Directorate:

   (a) 95 pieces of flint stones of various sizes from Qareen area, No. 16/4/1986;

   (b) 36 pieces of flint stones of various sizes from Qareen area, No. 4/1975;

   (c) 82 pieces of flint stones of various sizes from Qareen area, 1975;

   (d) 70 pieces of flint stones of various sizes from Qareen area, 2/175;

   (e) 39 pieces of flint stones of various sizes from Qareen area, 1/1975;

   (f) 82 pieces of flint stones of various sizes from Qareen area, 3/1975;

   (g) 10 pieces of flint stones of various sizes including two small pieces of pottery from Qareen area, 9/1975;

   (h) 138 pieces of flint stones of various sizes from Burqan area, tel 5 of Wafra area;

   (i) 75 pieces of flint stones of various sizes, including shells and pottery from Sabia, 1980;

   (j) 40 pieces of flint stones of various sizes from Burqan area;

   (k) 27 small stones of various colours from West Raqqa;

   (l) Small piece of pottery found near British Embassy, 1973;

   (m) 18 pieces of flint stones of various sizes from Qareen area;

(n) 17 pieces of flint stones of various sizes from Qareen area, 1974;

(o) 5 pieces of flint stones of various sizes from Qareen area, 1975;

(p) Small piece of pottery found at Murqab, 1977;

(q) 16 pieces of flint stones of various sizes from Qareen area, 1975;

(r) 53 small stones of various colours and shapes from Wafra area, 16/4/1986;

(s) 4 small flint stones from Burqan area;

(t) 5 small flint stones from Burqan area;

(u) 2 stones in different sizes from Burqan area, 1984;

(v) 16 flint stones in various sizes in plastic wrap from Sulay Bikhat area;

(w) 9 stones in small plastic wrap carrying a number and place of discovery in English;

(x) 10 small plastic bags containing 17 stone pieces carrying numbers and place of discovery in English;

(y) 3 small plastic bags two of which contain 19 various stones carrying number and place of discovery in English, the third contains tiny copper piece;

(z) 5 small flint stones of various sizes from Burqan area, 1984;

(aa) 57 pieces of flint stones of various sizes in a small carton container with one colour slide and a two-page list in French.

Annex II

Kuwaiti property returned on 3 February 2003

Documents

1. Journal of the Hellenistic temple (3).
2. Journal of the Faylaka excavations.
3. Journal of the Kuwait National Museum (Nos. 1-104).
4. Album on the ceremonial opening of the exhibition "Masterpieces of Islamic Art" at the Hermitage Museum, Union of Soviet Socialist Republics.
5. Album on the latest Soviet studies of Arab and Islamic civilization.
6. Album on the Hermitage exhibition (2).
7. Tape of a lecture on the solar system (Planetarium).
8. Audio tape on space and time.
9. Box file containing plans of the Kuwait (National) Museum (5).
10. Journal of the Kuwait National Museum on the Faylaka excavations, 1201 to 1597.
11. Plans of Faylaka island: the palaces and Al-Dayf properties ("Properties of the guest").
12. Plans of Umm al-Naml island (2).
13. Studies on miscellaneous subjects (6).
14. Notebook.
15. Photographs of Kuwaiti antiquities (32 envelopes).
16. Personal photographs of Kuwaiti landmarks (a number).
17. Slides of Kuwait antiquities (a number).
18. Plans (2).
19. Green file containing pictures of Kuwaiti antiquities (7).
20. Ampex tapes (9).
21. Metal drawers containing pictures of Kuwaiti antiquities (7).
22. Slides of miscellaneous Kuwaiti antiquities, a large number of pictures and seven boxes of slides.
23. Circular metal boxes containing slides (14).
24. Cardboard carton with metal box and bag containing slides.
25. Small cartons (2) containing miscellaneous large-format slides.
26. Sets of slide boxes (21).
27. Study on traditional-style Kuwaiti houses.
28. Study on the traditional-style house of Shaykh Ghazzalah.

29. Study on traditional-style house located on the Nafaq road.

30. Ministry of the Interior project (plans and pictures).

31. Study of a project on traditional-style houses (plans and pictures).

32. Plans of the Kuwait National Museum (20).

33. Recorded cassette tape (15).

Items

1. Carpet (machine-made), bearing a picture of the Amir of Kuwait.

2. Painting (of naked women) by Picasso (without frame).

3. Swords of the Amiri arms stores (5) (one without housing).

4. Porcelain plate with the logo of Kuwait.

5. Rifles (2), gifts by the Spanish King and the Queen of England to the Amir of Kuwait.

6. Coffee pot.